

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

UNIVERSITY OF PITTSBURGH OF THE
COMMONWEALTH SYSTEM OF HIGHER
EDUCATION d/b/a UNIVERSITY OF
PITTSBURGH,

08cv1307

ELECTRONICALLY FILED

Plaintiff,

v.

VARIAN MEDICAL SYSTEMS, INC.,

Defendant.

**Order on Objections to Preliminary Jury Instructions, Final Jury Instructions,
and Verdict Slip (Doc. Nos. 756, 757, 758 and 759) and Motion in Limine to Exclude
Evidence of Conception or Reduction to Practice (Doc. No. 754)**

AND NOW, this 2nd day of April, 2012, IT IS HEREBY ORDERED that:

(1) Varian's Objections (doc. no. 756) to Preliminary Jury Instructions (doc. no. 744) are OVERRULED. Therefore, the Preliminary Jury Instructions filed at doc. no. 744 are the final version thereof.

(2) Varian's Objections (doc. no. 757) to Final Jury Instructions (doc. no. 745) are SUSTAINED in PART, OVERRULED in PART and OVERRULED as MOOT in PART:

(a) Objections 1, 4, 5, 10, and 11 are OVERRULED.

(b) Objections 2, 3, and 9 are SUSTAINED.

(c) Objections 6, 7, and 8 are OVERRULED as MOOT as they relate to the date of invention and the typographical error (*see* doc. no. 770).

(d) The remainder of objections 6, 7, and 8 are OVERRULED.

(3) Varian's Objections (doc. no. 758) to Verdict Slip (doc. no. 746) are OVERRULED. Therefore, the Verdict Slip filed at doc. no. 746 is the final version thereof.

(4) Pitt's Objections (doc. no. 759) to Final Jury Instructions (doc. no. 745) are SUSTAINED in PART and OVERRULED in Part. In the final paragraph of page 33, the word "new" shall be inserted, so that it reads, "... additional weight to any new evidence"

(5) Varian's Motion in Limine to Exclude Evidence of Conception or Reduction to Practice From the Invalidity Trial (doc. no. 754) is DENIED as MOOT. *See* Parties' Joint Status Report (doc. no. 770).

(6) Revised Final Jury Instructions will be filed forthwith. If either party believes there are typographical errors and/or the Revised Final Jury Instructions deviate from the Parties' Joint Status Report (doc. no. 770), they shall notify the Court via email (Laura_Bunting@pawd.uscourts.gov) and opposing counsel by 7:30 a.m. on April 3, 2012.

s/ Arthur J. Schwab
Arthur J. Schwab
United States District Judge

cc: All Registered ECF Counsel and Parties